

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PHILLIP ALBERTERNST,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:10-CV-642 JCH
)	
CHRISTOPHER E. HUNT, et al.,)	
)	
Defendants.)	

PLAINTIFF'S MOTION TO STRIKE

COMES NOW Plaintiff Phillip Alberternst (“Plaintiff”), and moves this Court, to Strike Defendants’ Hunt and Rowe’s Responses to Plaintiff’s Motion for Summary Judgment and states to this Court the following and files concurrently herewith his Memorandum in Support of this Motion:

1. On May 11, 2011, Defendants’ Hunt and Rowe made multiple filings under seal in response to Plaintiff’s Motion for Summary Judgment. (*See* Docs. 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 85).
2. Each of Defendants’ Hunt and Rowe’s filings were titled, “MEMORANDUM in Opposition of Sealed Motion re [59] MOTION for Summary Judgment...”
3. Plaintiff’s Motion for Summary Judgment (Doc. #59) was **not** a sealed motion.
4. Defendants Hunt and Rowe made 14 separate filings all under seal, without filing a Motion to file said filings under seal.
5. Plaintiff’s undersigned counsel could not access any of Defendants Hunt and Rowe’s 14 separate filings because they were all filed under seal.

6. After reviewing the docket text of all of the 14 separate filings of Defendants Hunt and Rowe it is unclear what was actually filed with the Court.

7. Defendants Hunt and Rowe's counsel did email pdf files to the undersigned that were to be copies of what was filed, yet there are a number of exhibits that appear in the docket text that were not emailed to the undersigned.

8. To add to the confusion, Defendants Hunt and Rowe's counsel designated a handful of exhibits emailed to the undersigned as exhibits filed under seal, yet every filing was under seal.

9. Plaintiff's undersigned counsel spent significant time in trying to decipher and comprehend the multiple filings by Defendants Hunt and Rowe.

10. This Court has adopted Administrative Procedures for CM/ECF that were most recently revised on October 29, 2010.

11. Defendants Hunt and Rowe's filings completely fail to comply with the CM/ECF Administrative Procedures.

12. Defendants Hunt and Rowe's filings also fail to comply with Local Rules 4.01 and 13.05.

13. Defendants Hunt and Rowe's 14 filings were confusing, failed to comply with court rules and rendered it impossible for Plaintiff to read, much less reply to.

WHEREFORE, for the foregoing reasons, Plaintiff prays this Court to enter an order Striking Defendants' Hunt and Rowe's Responses, Docs. 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 85, and for such other and further relief as this Honorable Court deems just and proper under the circumstances.

Respectfully submitted,

SCHOTTEL & ASSOCIATES, P.C.

BY: s/James W. Schottel, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2011, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following:

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